

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD T. FURNACE,

Plaintiff,

v.

G. GIURBINO, et al.,

Defendants.

No. C 12-0873 LHK (PR)

ORDER DIRECTING
PLAINTIFF TO FILE SECOND
AMENDED COMPLAINT

Plaintiff, a state prisoner proceeding *pro se*, filed a civil rights complaint against prison officials at Salinas Valley State Prison ("SVSP") and Corcoran State Prison ("CSP"), pursuant to 42 U.S.C. § 1983. On June 1, 2012, the Court found that Plaintiff stated two cognizable claims for relief, and ordered service upon five Defendants. On June 19, 2012, Plaintiff filed a First Amended Complaint. On July 15, 2012, Plaintiff filed a letter, requesting that the Court strike Plaintiff's First Amended Complaint. That request is GRANTED. The Clerk of the Court shall strike Plaintiff's First Amended Complaint. (Docket No. 16.)

Plaintiff further states that the operative complaint upon which he wishes to proceed is the one sent to the Court on June 20, 2012, naming only Defendants G. Giurbino, K. Berkler, R.S. Marquez, E.W. Fischer, R.L. Martinez, and M. Valdez. However, the Court has no such complaint on file. To the extent Plaintiff wishes to file an amended complaint, he must file an amended complaint which will act as the operative complaint within thirty days from the filing

1 date of this order.

2 **Failure to file a second amended complaint within thirty days and in accordance**
3 **with this order will result in the Court proceeding with the original complaint, and the**
4 **cognizable claims as stated in the Court's June 1, 2012, Order of Service.** The second
5 amended complaint must include the caption and civil case number used in this order (C 12-0873
6 LHK (PR)) and the words SECOND AMENDED COMPLAINT on the first page. Plaintiff may
7 not incorporate material from the prior complaint by reference.

8 Plaintiff is advised that an amended complaint supersedes the original complaint. "[A]
9 plaintiff waives all causes of action alleged in the original complaint which are not alleged in the
10 amended complaint." *London v. Coopers & Lybrand*, 644 F.2d 811, 814 (9th Cir. 1981).
11 Defendants not named in an amended complaint are no longer defendants. *See Ferdik v.*
12 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992).

13 It is the Plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court
14 informed of any change of address by filing a separate paper with the clerk headed "Notice of
15 Change of Address," and must comply with the Court's orders in a timely fashion. Failure to do
16 so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of
17 Civil Procedure 41(b).

18 IT IS SO ORDERED.

19 DATED: 10/9/12

20 
LUCY H. KOH
United States District Judge